IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 1571 OF 2005.

Shantaram Anant Pawar. ... Appellant.

Versus.

Chintamani Anant Pawar & others. ... Respondents.

Shri G.S.Sabnis for the Appellant.

CORAM : ABHAY S.OKA, J.

DATED : 13th MARCH, 2006.

P.C.:

1. Heard Shri Sabnis for the Appellant. The appeal is by the original Defendant No.1. Shri Sabnis appearing for the Appellant submitted that the decree for partition should not have been passed as regards the house property as the same has been constructed by the Appellant/Defendant No.1 from his own funds in the year 1952 and therefore, it could not be a subject matter of partition.

2. Perusal of the Judgments of both the Courts below shows that the Appellant could not produce any document to substantiate the aforesaid contention and and the decree for possession has been passed in respect of all the properties including the house property.

3. Shri Sabnis submitted that the Courts below could have at least directed that the house property should be allotted to the share of the Appellant while effecting partition. The Appellant can always raise

appropriate contention in that behalf in the final decree proceedings or in the proceedings for effecting partition as the equities are always adjusted in such proceedings.

4. There is no substantial question of law arises in the Second Appeal. Second Appeal is dismissed.

Judge.